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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,606	12/29/2003	Paul H. Bouchier	10001728-3	1340

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HEWLETT-PACKARD COMPANY
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EXAMINER

PHAN, RAYMOND NGAN

ART UNIT	PAPER NUMBER
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2111

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,606

Applicant(s)

BOUCHIER ET AL.

Examiner

Raymond Phan

Art Unit

2111

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Part III DETAILED ACTION

Notice to Applicant(s)

1. This action is responsive to the following communications: amendment filed on June 24, 2005.
2. This application has been examined. Claims 1-9, 11-29 are pending.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 in Patent No. 6,725,317. Although the conflicting claims are not identical, they are not patentably distinct from each other because the omissions of, wherein at least one partition has at least two cell boards, in claim 1 are obvious expedients since elements of claims 1 of the present application still comprises the same components and functions,
a plurality of cell boards, with each cell board including at least one main processor;

a service processor that is connected to each of the cell boards;
data that describes a configuration for the computer system;
wherein each partition includes at least one cell board, and the service processor manages configuration of the partitions and wherein the service processor and each cell board stores a copy of the data.

as claim 1 of the patent. In re Karlson, 136 USPQ 189 (ccPA 1963).

5. Claim 15 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 in Patent No. 6,725,317. Although the conflicting claims are not identical, they are not patentably distinct from each other because the omissions of, using at least one USB format bus to provide communications between the service processor and the cell boards, in claim 13 are obvious expedients since elements of claims 15 of the present application performs the same functions,

providing a service processor that is connected to each of the cell boards;
providing data, by the service processor, that describes an initial configuration for the computer system;

storing a copy of that data in the service processor and in each cell board;
managing configuration of the partitions via the service processor,
as claim 13 of the patent. In re Karlson, 136 USPQ 189 (ccPA 1963).

6. Claim 27 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 24 in Patent No. 6,725,317. Although the conflicting claims are not identical, they are not patentably distinct from each other because the omissions of, wherein after reset, each cell enters a default configuration that excludes the other cells from being part of its partition,

and the service processor changes the default configuration of each cell to another configuration, in claim 24 are obvious expedients since elements of claims 27 of the present application still comprises the same components and functions,

a plurality of cell boards, wherein each partition includes at least one cell board, and each cell board is capable of determining whether each of the other cell boards may be part of its partition independent of the other partition;

service processor that is connected of the cell boards via at least one bus, wherein the service processor manages configurations of the partitions, and the service processor and each cell board stores a copy of data that describes a configuration for the computer system.

as claim 24 of the patent. In re Karlson, 136 USPQ 189 (ccPA 1963).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject mattersought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-3, 5-9, 11-17, 19-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over by Okazawa et al. (US No. 6,378,021) in view of Kleinsorge et al. (US No. 6,226,734).

In regard to claims 1, 15, 27, Okazawa et al. disclose the multi-processor computer system comprising a plurality of processor boards with each board having at least one processor (see col. 4, lines 50-59); a switch processor that is connected to each of the processor boards (see col. 5, lines 8-40); wherein each partition includes at least one processor boards and that switch processor manages configuration of the partitions (see col. 6, lines 1-50); wherein at least one partition

11 has at least two cell boards (i.e. PBx8) (see figure 1, col. 4, lines 50-67). But Okazawa et al. do not specifically disclose the use of data that describes a configuration for the computer system and wherein service processor and each of the cell board maintain a copy of the data. However Kleinsorge et al. disclose the use of data that describes a configuration for the computer system and wherein each of the cell board maintains a copy of the data (see col. 8, line 36 through col. 9, line 54). Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have combined the teachings of Kleinsorge et al. into the teachings of Okazawa et al. because it would provide a flexible computer system having maximum resource availability and scalability.

In regard to claims 2, 16, Okazawa et al. disclose each partition is running an operating system that is independent of the other partitions (see col. 6, lines 15-23).

In regard to claims 3, 17, Okazawa et al. disclose each processor board is capable of being reassigned to another partition while the computer system is on-line (see col. 2, lines 61-65).

In regard to claims 5, 19, Okazawa et al. disclose the processor board may be replaced while the computer system is on-line (see col. 6, lines 23-50).

In regard to claims 6, 20, Okazawa et al. disclose the switch processor can command the operation of the processor boards (see col. 6, line 66 through col. 7, line 11).

In regard to claims 7, 21, Okazawa et al. disclose the switch processor can command the operation of the partitions (see col. 6, line 66 through col. 7, line 11).

In regard to claims 8, 22, Okazawa et al. disclose the switch processor can reset a partition (see col. 7, lines 2-11).

In regard to claims 9, 23, even though Okazawa et al. or Kleinsorge et al. do not specifically disclose the service processor can be replace while the system is on-line, however one skilled in the art would have known to have the service processor to replace while the system is online to replace the faulty of service processor.

In regard to claims 11, 24, Kleinsorge et al. disclose wherein the configuration file managed by owner board (i.e. primary board) (see col. 8, line 36 through col. 9, line 54). Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have combined the teachings of Kleinsorge et al. into the teachings of Okazawa et al. because it would provide a flexible computer system having maximum resource availability and scalability.

In regard to claims 12, 25, Kleinsorge et al. disclose the modified configuration of the configuration file and re-distribute the modified configuration to each of the partitions (see col. 22, line 23 through col. 23, line 5). Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have combined the teachings of Kleinsorge et al. into the teachings of Okazawa et al. because it would provide a flexible computer system having maximum resource availability and scalability.

In regard to claim 13, Okazawa et al. disclose a microcontroller that handle the communication between the switch process and the processor board (see col. 5, lines 7-20).

In regard to claims 14, 26, Okazawa et al. disclose each partition configuring itself after switching (see col. 3, lines 36-50).

In regard to claim 28, Okazawa et al. disclose wherein after reset, each cell enters a default configuration that excludes the other cells from being part of its partition (see col. 6, lines 23-35).

In regard to claim 29, Kleinsorge et al. disclose the CPU change the default configuration to the another configuration (i.e. modified) (see col. 22, line 23 through col. 23, line 5). Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have combined the teachings of Kleinsorge et al. into the teachings of Okazawa et al. because it would provide a flexible computer system having maximum resource availability and scalability.

9. Claims 4 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over by Okazawa et al. in view of Kleinsorge et al. further in view of Diesing et al. (US No. 6,701,360).

In regard to claims 4, 18, Okazawa et al. and Kleinsorge et al. disclose the claimed subject matter as discussed above except the teaching of wherein the service processor communicates with the cell boards via at least one USB format bus. However Diesing et al. disclose the plurality of partitions and utilities processor (see figure 1) wherein the utilities processor communicates with the plurality of partition via USB bus (see col. 1, lines 30-44). Therefore, it would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have combined the teachings of Diesing et al. into the teachings of Okazawa et al. and Kelinsorge et al. because it would enable the periodic access to the partitions to perform maintenance and other tasks.

Response to Arguments

10. In view of remark filed on June 24, 2005, claims 1-3, 5-8, 11, 13-17, 19-22, 24, 26-28 have been fully considered but they are not deemed to be persuasive.

In response to applicant's argument that the combination of Okazawa et al. and Kleinsorge et al., the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In regard to claims 1, 15, 27, Applicant(s) argue that ...Kleinsorge et al. do not teach or suggest the service processor store a copy of data that describes the configuration of the computer system.. (page 10). The Examiner does not agree. Kleinsorge et al. teach the master CPU (i.e. service processor) loading a copy of console program into the memory which creates and initializes the partitions (i.e. on the cell boards) (see col. 8, lines 50-59). Kleinsorge et al. furthermore disclose the console program operating to create the configuration tree (see col. 8, lines 59-65).

The remaining claims, not specifically mentioned, are rejected for the same rationale as set forth their dependency.

Conclusion

11. Claims 1-9, 11-29 are rejected.

12. The prior arts made of record and not relied upon are considered pertinent to applicant's disclosure.

Takaya et al. (US No. 5,630,116) disclose an automatic delivery system for master files in a distributed processing system.

Akizawa et al. (US No. 5,548,724) disclose a file server system and file access control method and the same.

Kauffman et al. (US No. 6,332,180) disclose a method and apparatus for communication in a multiprocessor computer system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Raymond Phan, whose telephone number is (571) 272-3630. The examiner can normally be reached on Monday-Friday from 6:30AM- 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Primary, Paul Myers can be reached on (571) 272-3639 or via e-mail addressed to paul.myers@uspto.gov. The fax phone number for this Group is (571) 573-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [raymond.phan@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 central telephone number is (571) 272-2100.

RR

Raymond Phan
Sept 15, 2005

Paul R. Myers

PAUL R. MYERS
PRIMARY EXAMINER